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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,458	05/25/2005	Takeshi Kamata	050335	6475

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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP  
1725 K STREET, NW  
SUITE 1000  
WASHINGTON, DC 20006

EXAMINER
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NGUYEN, CHAU N

ART UNIT	PAPER NUMBER
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2831

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/12/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/536,458	<b>Applicant(s)</b> KAMATA ET AL.	
	<b>Examiner</b> Chau N. Nguyen	<b>Art Unit</b> 2831	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 8, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by JP10-31918 (JP'918).

JP'918 discloses a covered wire (Figure 12) having an electrical conductive core and a unicolor cover portion (12) of synthetic resin for covering said core comprising: a first mark (83) being formed by coloring a part of an outer surface of said cover portion with a first color; and a second mark (82) being formed by coloring the other part of said outer surface of said cover portion with a second color different from said first color, whereby said first mark and said second mark are disposed alternately with a gap along lengthwise of said covered wire, and a length of said first mark along the lengthwise of said covered wire is longer than that of said second mark along the lengthwise of said covered wire, and wherein

the marks are made by spouting a predetermined amount of a liquid coloring material (ink 18) of the color against the outer surface of the cover portion of the covered wire (re claim 1). JP'918 also discloses one of the first marks and one of the second marks being disposed respectively at an end area of the covered wire (re claim 2) and means (82) for distinguishing wire diameters as capable to distinguish outer diameters of said covered portions (re claims 3 and 12). Claim 8 is method counterpart of claim 1.

3. Claims 5, 10, 17 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Fitzgeralds et al. (2,989,943).

Fitzgerald et al. (Figure 2) discloses a covered wire having an electrical conductive core and a unicolor cover portion of synthetic resin for covering the core, comprising a plurality of marks (15) being formed by coloring a part of an outer surface of the cover portion with a color, the marks being disposed with a gap therebetween along lengthwise of the covered wire, wherein the marks are made by spouting a predetermined amount of a liquid coloring material of the color against the outer surface of the cover portion of the covered wire from a plurality of nozzles (20, 21) oriented in the same direction toward the wire (all the nozzles are oriented in an axial direction or axially toward the wire) (re claim 5).

Fitzgeralds et al. also discloses the color being selected respectively for the covered wires as capable to distinguish each covered wire (re claim 10); the liquid coloring material being supplied in a nozzle joined with a valve (46, Figure 3), which is joined with a compressed-gas supply source (42), and being spouted by the compressed-gas supplied from the compressed-gas supply source when the valve is opened (re claims 17 and 21).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35

U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 4, 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP'918.

Re claims 4, 9, and 13, JP'918 discloses means (82), which is the second mark, for distinguishing wire diameters. JP'918 does not disclose the means (the second mark) being divided to plural pieces. However, it would have been obvious to one skilled in the art to modify the means (the second mark 82) of JP'918 to have plural pieces to meet the specific use of the resulting covered wire, such as more attractive, since it has been held that constructing a formerly integral structure into various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

7. Claims 1, 6-8, 11, 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgeralds et al. in view of JP'918.

Fitzgeralds et al. discloses the invention substantially including a plurality of further marks (16) provided between a pair of said marks adjacent to each other by coloring a part of the outer surface of the cover portion with a further color different from said color and disposed with a space along the lengthwise of the

covered wire. Fitzgeralds et al. does not disclose the further marks being means for distinguishing wire diameters as capable to distinguish outer diameters of the cover portions and provided with plural pieces (re claims 6, 7 and 11).

JP'918 discloses a cable comprising a plurality of marks and a plurality of further marks (82) which are means for distinguishing wire diameters as capable to distinguish outer diameters of the cover portions. It would have been obvious to one skilled in the art to provide the further marks (16) of Fitzgeralds et al. as means for distinguishing wire diameters as taught by JP'918 to identify the wire diameters the covered wires. It would also have been obvious to one skilled in the art to modify the means (the further marks 16) of Fitzgeralds et al. to have plural pieces to meet the specific use of the resulting covered wire, such as more attractive, since it has been held that constructing a formerly integral structure into various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Fitzgeralds et al. also discloses each liquid coloring material being supplied in a nozzle joined with a valve (46, Figure 3), which is joined with a compressed-gas supply source (42), and being spouted by the compressed-gas supplied from the compressed-gas supply source when the valve is opened (re claims 15 and 19).

Fitzgeralds et al. does not disclose the length of the first marks (15) along the lengthwise of the covered wire being longer than that of the second marks (16)

along the lengthwise of the covered wire (re claim 1 and 8). JP'918 discloses a cable with first and second marks, wherein the length of the first marks (81) along the lengthwise of the covered wire is longer than that of the second marks (83) along the lengthwise of the covered wire. It would have been obvious to one skilled in the art to provide the second marks of Fitzgeralds et al. with a length longer than that of the first marks along the lengthwise of the covered wire such that each first and second marks provide different identification purposes as taught by JP'918.

8. Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP'918 in view of Johnstone (1,931,610).

JP'918 discloses the invention substantially as claimed except for the coloring material being a liquid material dissolving and dispersing color material in a solvent. Johnstone discloses a cable comprising coloring marks, wherein the coloring material is a liquid material dissolving and dispersing color material in a solvent (page 1, lines 57-65). It would have been obvious to one skilled in the art to use the coloring material as taught by Johnstone for the coloring material of JP'918 to provide permanent marks which will remain on the cable even after the latter has been subjected to severe abrasion in use.

9. Claims 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgeralds et al. in view of Johnstone.

Fitzgeralds et al. discloses the invention substantially as claimed except for the coloring material being a liquid material dissolving and dispersing color material in a solvent. Johnstone discloses a cable comprising coloring marks, wherein the coloring material is a liquid material dissolving and dispersing color material in a solvent (page 1, lines 57-65). It would have been obvious to one skilled in the art to use the coloring material as taught by Johnstone for the coloring material of Fitzgeralds et al. to provide permanent marks which will remain on the cable even after the latter has been subjected to severe abrasion in use.

### ***Response to Arguments***

10. Applicant's arguments filed 12/14/2006 have been fully considered but they are not persuasive. Applicant primarily argues that Fitzgerald et al. discloses the nozzles 20, 21 disposed on opposite side of the path of the longitudinal movement of the strand 17. This is in contrast to the present invention in which the nozzles are arranged on the same side with respect the wire. Examiner disagrees. Claims 5 and 10 as currently amended recite the nozzles being ***oriented in the same***

***direction toward the wire.*** Figures 1-2 of Fitzgerald et al. discloses that the nozzles 20-23 are oriented in the same direction toward the wire, which is the axial direction toward the wire.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N. Nguyen whose telephone number is 571-272-1980. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Chau N Nguyen  
Primary Examiner  
Art Unit 2831